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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,538	03/11/2002	Timothy Hugh Norman	RED-67	7908
20311	7590	12/27/2005	EXAMINER	
LUCAS & MERCANTI, LLP 475 PARK AVENUE SOUTH 15TH FLOOR NEW YORK, NY 10016			PRITCHETT, JOSHUA L	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/018,538

Applicant(s)

NORMAN, TIMOTHY HUGH

Examiner

Joshua L. Pritchett

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This action is in response to Request for Continued Examination and Amendment filed November 1, 2005. Claim 18 has been amended as requested by the applicant.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 18-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 18 includes the newly added limitation that the mirror position be non-adjustable. There is no support for this limitation in the original disclosure of the invention.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 18-22 and 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lang (US 5,604,644) in view of Repay (US 3,972,597).

Regarding claim 18, Lang '644 teaches a vehicle rear view mirror (Fig. 1) comprising a housing (2) and a mirror lens (11) carried by a location frame (12) rigidly mounted within and directly connected to the housing (Fig. 1), the frame and/or housing being made from a resilient material (col. 2 lines 44-57)) and the frame being a resilient snap-fit (Fig. 1; col. 2 lines 44-57) within the housing characterized in that the housing has a rim portion (at 21) within the frame is located. The nature of a snap-fit connection requires that the connection means have some resiliency to be able to bend elastically and spring back into place to create the snap-fit. Lang '644 lacks reference to the frame and mirror being wholly located without extending over the outer edges of the rim portion and the frame is attached in a fixed position. Repay teaches a mirror (24) with a frame (25) wholly located within a rim portion of a housing (22; Fig. 2) and the frame being in a fixed position (through vibration damper, 38). The definition of fix according to Merriam-Webster's Collegiate Dictionary Tenth Edition is, "to make firm, **stable**, or stationary" (emphasis added). The purpose of the vibration damper (38) is to make the mirror frame stable so as to not allow the mirror to vibration thus distorting the reflected image viewed by the driver. Lang '644 further lacks reference to the mirror position being non-adjustable. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

Art Unit: 2872

omit the adjustability of Lang '644, since it has been held (In re Kuhle) that omission of an element and its function in combination where the remaining elements perform the same functions as before involves only routine skill in the art. In the instance case, the omitted element would not be required in that its removal solely eliminates its function of adjusting the position of the mirror. Further, one would have been motivated to omit the element in order to further guarantee the mirror is stable within the frame. The stability of the mirror is a major concern of Lang '644 (col. 3 lines 10-20) and making the mirror non-adjustable would make it more stable. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the Lang '644 invention have the frame and mirror located wholly inside the housing and in a fixed position as taught by Repay for the purpose of shielding the frame from the weather to increase the usable life span of the rear view mirror and allowing the driver to observe an image with as little distortion as possible.

Regarding claim 19, Lang '644 teaches the housing is provided with frame retainment means (21) and the frame is provided with housing engagement means (20).

Regarding claim 20, Lang '644 teaches the frame retainment means comprises one or more catches (21) and the housing engagement means comprises one or more abutments (20) which co-operated with the catches (Fig. 1).

Regarding claim 21, Lang '644 teaches the frame is provided with lens engagement means (13).

Regarding claim 22, Lang '644 teaches the lens engagement means comprises one or more abutments (13) adapted to the lens.

Regarding claim 24, Lang '644 teaches the frame is made from a resilient synthetic plastics material (col. 1 line 16).

Regarding claim 25, Lang '644 teaches the housing comprises a casing (2) adapted to cover the rear face of the lens (Fig. 1).

Regarding claim 26, Lang '644 teaches the lens is convex (Fig. 1).

Regarding claims 27 and 28, Lang '644 teaches the lens is of a substrate on which reflective surface may be deposited; specifically glass (col. 2 line 31).

Regarding claim 29, Lang '644 teaches the frame is provided with slots (23) at each corner to provide further resilience to the frame.

Regarding claim 30, Lang '644 teaches the housing and the frame are releasably detachable (col. 1 lines 56-60).

Regarding claim 31, Lang '644 teaches the housing is provided with means to receive a mounting attached to a vehicle (3).

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lang (US 5,604,644) in view of Repay (US 3,972,597) as applied to claim 21 above, and further in view of Grissen (US 4,826,306).

Lang '644 in combination with Repay teaches the invention as claimed but lacks reference to the use of a lens being a resilient snap-fit into the frame. Grissen teaches a vehicle rear view mirror (11) with a lens (12) that is a resilient snap-fit (Fig. 2) in a frame (21). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to

Art Unit: 2872

have the Lang '644 invention include the snap-fit lens of Grissen for the purpose of eliminating the need for gluing the lens into the frame.

### *Response to Arguments*

Applicant's arguments filed November 1, 2005 have been fully considered but they are not persuasive.

Applicant argues that the prior art fails to teach or suggest a the position of the mirror being non-adjustable. This limitation is not supported by the original disclosure of the invention. Further it is within the skill of one of ordinary skill in the art to element an element and its function as stated in the rejection above.

### *Conclusion*

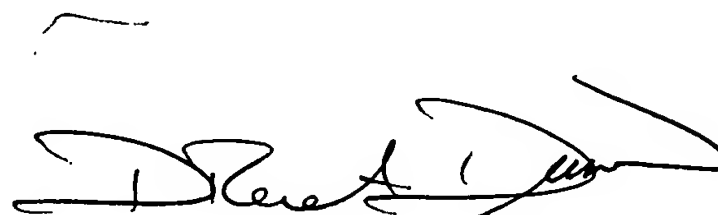
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L. Pritchett whose telephone number is 571-272-2318. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2872

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JLP 



**DREW A. DUNN**  
**SUPERVISORY PATENT EXAMINER**